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IN THE SUPREME COURT OF THE STATE OF ARIZONA

IN THE MATTER OF

R-13-0012

**PETITION TO AMEND
RULE 122, ARIZONA
SUPREME COURT RULES**

**ARIZONA PROSECUTING ATTORNEYS'
ADVISORY COUNCIL'S
COMMENTS TO PETITION TO AMEND
RULE 122 OF THE ARIZONA SUPREME
COURT RULES**

Pursuant to Arizona Rules of the Supreme Court, Rule 28(C), the Arizona Prosecution Attorneys' Advisory Council ("APAAC") hereby submits its comments to the Petition to Amend Rule 122 of the Arizona Supreme Court Rules.

While APAAC has no objection generally, three areas of concern or confusion are noted below and highlighted in yellow:

A. Does the victim have the right to object to coverage in general or only to coverage of the victim's testimony?

Proposed Rule 122(c) (5) provides:

(5) *Time for a victim or witness to object to a request:* A victim or a witness may object to coverage at any time. A victim's attorney, a prosecutor's victim advocate, as well as anyone who calls a witness to testify, has a responsibility to notify that victim or witness of coverage, and his or her right to object, prior to the victim's appearance or the witness's testimony at the proceeding.

Under this proposal, does the victim have the right to object to a request for coverage similar to the right of "parties"? Do victims who will not be testifying similarly have a right to object to coverage? While APAAC takes no position on these questions, it should be noted that the language in proposed Rule 122(c)(5) is ambiguous and can be read to suggest that victims do have the right to object generally.

B. Notification of victims

Proposed Rule 122(c) (5) also provides for notification as follows:

(5) *Time for a victim or witness to object to a request:* A victim or a witness may object to coverage at any time. A victim's attorney, a prosecutor's victim advocate, as well as anyone who calls a witness to testify, has a responsibility to notify that victim or witness of coverage, and his or her right to object, prior to the victim's appearance or the witness's testimony at the proceeding.

APAAC objects to the specific requirement that the "victim advocate" in the prosecutor's office provide notification to a victim because it is unnecessarily if unintentionally "micro-manages" who in the prosecutor's office will provide the notification. APAAC requests that the language be changed to read:

A victim's attorney, the prosecutor's office, as well as anyone who calls a witness to testify, has a responsibility to notify that victim or witness of coverage, and his or her right to object, prior to the victim's appearance or the witness's testimony at the proceeding.

Finally, APAAC is concerned that this proposed language overlooks the rights of non-testifying victims. Assuming that the intent of the rule is to allow victims to object generally to coverage, the notification portion of the rule should be changed to read:

A victim's attorney, the prosecutor's office, as well as anyone who calls a witness to testify, has a responsibility to notify all victims or witnesses of coverage, and his or her right to object, prior to the victim's appearance or the witness's testimony at the proceeding.

Respectfully submitted this 5th day of June, 2013.

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL

SHEILA SULLIVAN POLK
YAVAPAI COUNTY ATTORNEY
APAAC Chair

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APAAC Executive Director



By: _____
SHEILA SULLIVAN POLK
APAAC Chair